

1. But the first section which gave a new mode of taking proof in Great Britain, then a part of the common empire, must have been renounced by our Declaration of Independence, by which all community of law and government between Great Britain and Maryland was severed. *Lewis v. Bacon*, 3 *Hen. & Mun.* 89. In those of the Colonies in which lands had been made liable to be taken in execution by their own laws, this statute was unnecessary; and, as indicated in its preamble, was not intended to apply to, and was therefore not adopted by them. *Graff v. Smith*, 1 *Dall.* 481; 4 *Com. Dig.* 228, 245; *Wilkinson v. Leland*, 2 *Peters*, 658; *Robinson v. Noel*, 2 *Cas. Cha.* 145; *Blankard v. Galdy*, 4 *Mod.* 226. It was reluctantly, but finally submitted to in Jamaica. 2 *Edwards' His. West Ind.* 366; 3 *Ibid.* 214. In North Carolina, it was received and applied much in the same manner as in Maryland. *Baker v. Webb*, 1 *Hayw.* 62; *Winstead v. Winstead*, 1 *Hayw.* 243. In South Carolina, Georgia and Jamaica, it was adopted and so applied as that, on the death of the debtor, his real estate was converted, with \*respect to the payment of his debts, into personalty; and as such, held to be assets in the hands **307** of his executor or administrator for the benefit of his creditors. *Galphin v. McKenney*, 1 *McCord*, 292; *Telfair v. Stead*, 2 *Cran.* 418; *Thompson v. Grant*, 1 *Russ.* 540, note; *Will. Exrs.* 1017. In Virginia, that section which subjected lands to the payments of debts, was rejected and nullified, as an unconstitutional encroachment upon her sovereign rights; 1 *Jefferson Corr.* 106; 1734, *ch.* 25, 4 *Hen. Stat.* 452; 1744, *ch.* 40, 5 *Hen. Stat.* 292; 1748, *ch.* 12, 5 *Hen. Stat.* 526; 1759, *ch.* 34, 7 *Hen. Stat.* 328; 1761, *ch.* 28, 7 *Hen. Stat.* 450; but the first section providing a mode of collecting proofs in Great Britain, was admitted to be in force there until our Declaration of Independence. *Lewis v. Bacon*, 3 *Hen. & Mun.* 89.

It has been often said, that this statute in itself made a distinction between the people of Great Britain and those of the Colonies; that domestic debts were not included by it; and that by an equitable construction only it was so extended as to embrace Maryland as well as British creditors. *Morgan v. Davis*, 2 *H. & McH.* 12; *Donaldson v. Harrey*, 3 *H. & McH.* 13; *Davidson v. Beatty*, 3 *H. & McH.* 608; *Kilty's Rep.* 250; *Taylor v. Thompson*, 5 *Peters*, 358. It is true, that it may have been passed at the instance of British merchants; and the first section which makes provision for the manner of proving debts, could, from its nature, be only applied for the benefit of those resident in Great Britain, and not to the inhabitants of the Plantations. But the fourth and most important section, and the only one now in force, makes no distinction whatever as to the residence or domicile of the party. On the contrary, all distinctions arising from the local situation of the party, or his being a subject resident in Great Britain, or in the colonies, or in any other part of the British